

REMARKS

Claims 39, 40, 43-45, 47 and 63-86 remain in the application. Claims 39 and 43 have been amended, and claims 63-86 have been added. Claims 1-38, 41-42, 46 and 48-62 have been cancelled. Entry of all of the above amendments and favorable reconsideration of this application are requested.

The Amendments

Claim 39 is now presented as an independent claim by removing reference to the film of claim 1 and substituting the description of the film of claim 1 into claim 39 amended.

Independent claim 43 has been amended to correct an inadvertent error and to provide that the adhesive layer is joined to the lower surface of the second skin layer rather than the base layer. Support for this amendment is found in Fig. 5 and on page 26, lines 5-10.

New claims 63-72 are dependent from claim 39 and are similar in scope to original claims 2-10 and 12-13. Claim 73 is a new claim dependent on claim 39 which specifies the film is oriented in the machine direction only. Support for this amendment is found in the specification such as lines 16-17 on page 4, lines 25-26 on page 22, and lines 25-28 on page 32. Claims 74 and 76 specify a stretch ratio in the machine direction of about 2:1 to about 9:1. Support is found in the specification on page 22, lines 26-27. Claim 75 is a new claim dependent on 43.

New claims 75-86 are directed to adhesive containing labelstock comprising a multilayer film comprising a base layer and a first skin layer, and an adhesive layer. Support is found in Fig. 4 and on page 6, line 27 to page 7, line 4.

Election/Restriction Requirement

Claim 3 was previously withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected species, there being no allowable generic or linking claim.

Claim 3 has now been cancelled.

The Rejections

I. Claims 1-7, 9, 11, 14, 16, 17, 18, 22, 23, and 26-32 have been rejected under 35 USC §102(b) as being anticipated by Vicik et al U.S. 4,188,250.

This rejection of these claims is now moot in view of the cancellation of the claims.

II. Claims 1, 2, 4-19 and 22 have been rejected under 35 USC §102(b) as being anticipated by Fujii et al U.S. 5,026,778.

This rejection is now moot in view of the cancellation of these claims.

III. Claims 1, 2, 4-15, 17 and 19-26 have been rejected under 35 USC §102(b) as being anticipated by Kozimor et al U.S. 6,231,936.

In view of the cancellation of all of these claims, the rejection is now moot.

IV. Claims 1, 2, 4-41, 43-45 and 47-62 have been rejected under 35 USC §103(a) as being unpatentable over Fujii et al U.S. 5,026,778.

Claims 1, 2, 4-38, 41 and 48-62 have been cancelled. Reconsideration of the rejection of the remaining claims 39, 40, 43-45 and 47 is respectfully requested in view of the remarks which follow. These remarks also are submitted as applying to the patentability of new claims 63-86.

All of the claims pending in the application are directed to adhesive containing labelstocks for use in adhesive labels. The adhesive labelstocks comprise a film layer and an adhesive layer adhesively joined to the lower surface of the film. The film may comprise one or more layers: a base layer, and optionally a first skin layer or first and second skin layers. In the multilayer adhesive containing labelstocks, the adhesive layer is adhesively joined to either the lower surface of the base layer or to the lower surface of the second skin layer when a second skin layer is present in a multilayer film.

Applicants respectfully submit that the present claims are not obvious over Fujii et al. In particular, as acknowledged by the Examiner there is no teaching or suggestion in Fujii et al of the use of an adhesive layer adhesively joined to the sheets.

The Examiner, however, has suggested that the addition of an adhesive layer to either bond the films to another structure or to close the container would be well within the ordinary skill in the art. Reconsideration of this rejection is requested since there is no teaching in Fujii et al which would suggest to or motivate one skilled in the art to add an adhesive layer to the sheets. It is not surprising that Fujii et al do not discuss the use of adhesives since Fujii et al are describing a resin composition and a process for preparing sheets which can be molded and shaped to form various containers.

With respect to the presently claimed labelstocks comprising a multilayer film and an adhesive layer, such claims additionally would not be obvious over Fujii et al's mention that molded articles (containers) could be prepared from single layer sheets or multilayer sheets in column 7, lines 15-17. Applicants respectfully submit that Fujii et al are suggesting the use of more than one sheet of the type described in the '778 patent. Applicant has not found any disclosure in Fujii et al of multi-layer sheets, and more particularly, Applicants have not found any teaching or suggestion in Fujii et al of multilayer films such as those described in claims 43, 44, 47 and 74-83.

New claims 74, 76 and 86 specify that the films are oriented by stretching in the machine direction at a stretch ratio of about 2:1 to about 9:1. Machine direction orientation at these stretch ratios is not taught by Fujii et al.

In view of the limited teachings of Fujii et al, the Examiner is requested to reconsider and withdraw the rejection of the claims based on Fujii et al.

V. Claims 1-2, 4-41, 43-45, and 47-62 have been rejected under 35 USC §103(a) as being unpatentable over Kozimor et al U.S. 6,231,936.

Kozimor et al teach blends of polypropylene, metallocene catalyzed polyethylene and nucleating agents which are radiation tolerant, and articles prepared from such blends. The Examiner has suggested (page 4 of Paper 20050110 that

"These materials can be used in the production of multilayer article or single layer articles, in which the polymers may be uniaxially oriented....

While the Applicants claim three layer structures there is nothing that differentiates the components of the three layers, and the core could comprise the same components as the surface layers, it appears on its face that a three layer structure made from the polymers in question would meet the claims. Minor variations in the components would have been obvious based on the use of the film e.g., the use of slip agents, colorants, etc....

Since these structures are used for various applications, it would have been obvious to one of ordinary skill in the art to have used adhesives where necessary.

Reconsideration and withdrawal of this rejection as applied to the pending claims is solicited. With regard to Applicant's claims utilizing a two or three layer film, Applicant respectfully submits that the two and three layer films utilized in the labelstocks of the present invention are different and unobvious from any multilayer structure described by Kozimor et al. The only discussion of a multilayer structure found in Kozimor is in column 8, line 13 where Kozimor states that useful "devices include food packaging material comprising film and a self supporting multilayer structure which includes: (1) metal foil, (2) cellulosic material, (3) opaque plastic film, or combinations thereof". Applicant has not been able to find any disclosure or suggestion in Kozimor et al that the films prepared from the radiation tolerant polypropylene may comprise two or more layers, and surely no three layer structure made from Kozimor's polymers that would meet the present claims.

In any event, the rejection of the pending claims directed to adhesive-containing labelstock as being obvious because "it would have been obvious to one of ordinary skill in the art to have used adhesives where necessary" finds no support in Kozimor et al. While the Examiner is correct in indicating that Kozimor's structures can be used for various applications, those applications discussed in detail in column 8, line 14 through column 9, line 27 include articles and devices which include food packaging materials, medical devices, lab ware bottles for culture growth, liquid storage containers such as bags, pouches and bottles, etc. Kozimor et al describes that the devices may be made or formed by any useful forming means. Column 4, lines 11-21.

There is no disclosure in Kozimor et al of the use of an adhesive layer in combination with the articles and devices, and it is respectfully submitted that Kozimor et al have not described any application wherein one skilled in the art would normally use adhesive layers. More particularly, there is no suggestion of utilizing the radiation tolerant polypropylene compositions (either monolayer or multilayer) for preparing adhesive containing labelstocks for use in preparing adhesive labels.

Related Application

Pursuant to MPEP 2001.06(b), Applicants wish to inform the Examiner of copending Application Serial No. 10/939,086 filed September 10, 2004 which contains related subject matter.

Conclusion

In view of the above comments and the amendments to the claims, Applicant respectfully submits that all of the claims pending in the application are allowable over the prior art. In particular, the claims of the present application are not obvious over Fujii et al or Kozimor et al. An early action allowing all of the claims is solicited.

Respectfully submitted,

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